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June 2, 2008

BY HAND

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

*Time to answer or otherwise
plead is extended to July 11, 2008.
So ordered.
6/3/08 [Signature] U.S.D.S.*

Re: Rex Jones v. City of New York, et al., 08 Civ. 4618 (JGK)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York in the above-referenced matter. I write with respect to the above-referenced matter in which plaintiff alleges that his constitutional rights were violated by defendants. Defendant City respectfully requests an extension of its time to answer or otherwise respond to this complaint from June 9, 2008 until August 9, 2008. Plaintiff's counsel has consented only to a 30 day enlargement.

There are several reasons for seeking a sixty-day enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. It is our understanding that the records of the underlying criminal actions, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiff for execution authorizations for the release of sealed arrest and criminal prosecution records so that defendant City can access the information, properly assess the case, and respond to this complaint.

Furthermore, there is an individual defendant named in the complaint: Police Officer Luis Ortiz. This extension should allow plaintiff to properly serve the officer with the

summons and complaint in this action.¹ If Officer Ortiz is properly and timely served, the extension may also give this office time to determine, pursuant to Section 50-k of the New York General Municipal Law, and based upon a review of those facts, whether we may represent him. *See Mercurio v. The City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made by defendant City. Accordingly, we respectfully request that defendant's time to answer or otherwise respond to the complaint be extended to August 9, 2008.

Thank you for your consideration herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael K. Gertzer".

Michael K. Gertzer
Assistant Corporation Counsel

cc: (By facsimile (212) 687-1406)
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¹ This office has not spoken to Officer Ortiz and does not represent him.